

Revised 03/06 WDNV

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983  
(Prisoner Complaint Form)**

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

**1. CAPTION OF ACTION**

10 CV 823 AR

**A. Full Name And Prisoner Number of Plaintiff:** NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Everett Jones #07A5636

2. \_\_\_\_\_

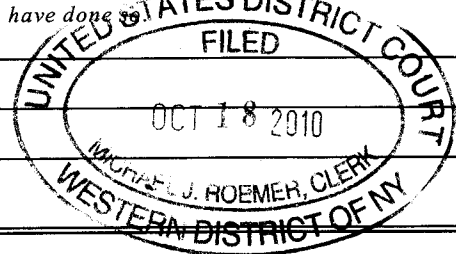
-VS-

**B. Full Name(s) of Defendant(s)** NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. Superintendent of Attica Correctional 4. \_\_\_\_\_

2. Sgt. Cochran 5. \_\_\_\_\_

3. R. N. Hawley 6. \_\_\_\_\_



**2. STATEMENT OF JURISDICTION**

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

**3. PARTIES TO THIS ACTION**

**PLAINTIFF'S INFORMATION** NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Everett Jones #07A5636

Present Place of Confinement & Address: Great Meadow Correctional Facility

Post office Box 51  
Comstock ny 12821-0051

Name and Prisoner Number of Plaintiff: \_\_\_\_\_

Present Place of Confinement & Address: \_\_\_\_\_

**DEFENDANT'S INFORMATION NOTE:** To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Superintendent of Attica Correctional Facility

(If applicable) Official Position of Defendant: Superintendent

(If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity

Address of Defendant: Attica Correctional Facility  
Exchange Street, Attica ny, 14011-0149

Name of Defendant: SGT Cochran

(If applicable) Official Position of Defendant: Sargent

(If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity

Address of Defendant: Attica Correctional Facility  
Exchange Street, Attica ny 14011-0149

Name of Defendant: R.N. Rensley

(If applicable) Official Position of Defendant: Registered nurse 1

(If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity

Address of Defendant: Attica Correctional Facility  
Exchange Street, Attica ny 14011-0149

#### **4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT**

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?  
Yes ☒ No ☐

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): Everett Jones

Defendant(s): State of new york

2. Court (if federal court, name the district; if state court, name the county): new york state court  
of claims

3. Docket or Index Number: 355117

4. Name of Judge to whom case was assigned: Michael E. Hudson

5. The approximate date the action was filed: 9/3/09

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☒

If not, give the approximate date it was resolved. 9/8/10

Disposition (check the statements which apply):

☒ Dismissed (check the box which indicates why it was dismissed): fail to pursue Defendant correctly

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☒ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): Everett Jones # 07A5636

Defendant(s): Care Custody Control officers of Rikers Island.  
Almodovar Shield #16078, Captain Williams Shield #820 "Thurman" #1, ADW

2. District Court: Southern District of New York

3. Docket Number: 07CV7653

4. Name of District or Magistrate Judge to whom case was assigned: Robert W. Sweet

5. The approximate date the action was filed: 10/10/07

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☒

If not, give the approximate date it was resolved. 3/13/2008

Disposition (check the statements which apply):

☒ Dismissed (check the box which indicates why it was dismissed): *By Settlement*

\_\_\_ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

\_\_\_ By court for failure to exhaust administrative remedies;

\_\_\_ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

\_\_\_ By court due to your voluntary withdrawal of claim;

\_\_\_ Judgment upon motion or after trial entered for

\_\_\_ plaintiff

\_\_\_ defendant.

### 5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- |                           |                             |                                      |
|---------------------------|-----------------------------|--------------------------------------|
| • Religion                | • Access to the Courts      | • Search & Seizure                   |
| • Free Speech             | • False Arrest              | • Malicious Prosecution              |
| • Due Process             | • Excessive Force           | • <u>Dental of Medical Treatment</u> |
| • <u>Equal Protection</u> | • <u>Failure to Protect</u> | • Right to Counsel                   |

**Please note that** it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

**Fed.R.Civ.P. 8(a)** states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

**Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

### Exhaustion of Administrative Remedies

Note that according to **42 U.S.C. § 1997e(a)**, "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. First Claim: (on date of the incident) : 7/30/10.

(Defendant involved in this incident) : Sargent Cochran.

(Did the following to me): On the above Date I was a victim of a 4<sup>th</sup> man gang assault I was stabbed approx "6" times and slice to the right side of my face with a razor blade leaving a 16" inch scar. On this date of incident I was move into the housing area (B-Block) Sargent Cochran is the Supervisor of this Block and was on notice that there was a foreseeable problem with me and other inmate he fail to protect me from these inmate and place me on the same hallway (Cell location) with inmate I had problems with. On the date of this incident the metal Detector wasn't used and weapons was permitted into the recreational yard in B-Block and I became the victim of a gang assault by four inmate. in the course of this incident there wasn't any officer in the yard and Sargent Cochran failed to secure this housing area of weapons and protect me from non-inmate with assaultive behavior.

The constitutional basis for this claim under 42 U.S.C §1983 is: (Failure to protect.)

The relief I am seeking for this claim is: \$75,000 thousand dollars of monetary compensation for my injuries I've Sustained from this assault.

: Exhaustion of your Administrative Remedies:

Did you grieve or appeal this claim? ✓ yes        No. if yes what was the result? The grievance committee agreed with me in part. A55643-09 a copy is attach.

Did you appeal that Decision? ✓ yes        NO if yes what was the Result? C.O.R.C. agreed in part as well.

All copies of document that indicate I've exhausted my administrative Remedies are attach.

A. Second Claim: on (Date of the incident) 7/30/09

Defendant involved in this incident) (Superintendent) of Attica Correctional Facility.

Did the following to me: on the above date of incident and after I filed a grievance, grievance agreed in part I appeal this decision to the Superintendent his response was there isn't enough man power to run every inmate through the metal detector and he don't see any compelling reason to alter his present operation of the facility. Attica C.F. is a max A" Facility with inmate ~~inmate~~ with dangerous assaultive behavior's it is the Superintendent duty to make sure security measure are tight at all time. I have the right to be free from prison assault from staff or inmate my 8" Admonishment was violated I put the Superior officer of B Block area on notice that there was a foreseeable problem with me and other inmate & as well I wrote the Superintendent and express my concern for my safety no answer or any thing was done to protect me. Due to the Superintendent carelessness my life was put in danger. The relief I am seeking for this claim is: \$75,000 of monetary compensation for my injuries due Substantiated from this assault and the failure to protect me from prison assault.

Exhaustion of your Administrative Remedies:

Did you grieve or appeal this Claim? ✓ yes — NO if yes what was the result? The Grievance Committee agreed in part with me Grievance # A5564309 a copy Attach.

Did you appeal that decision? ✓ yes — NO if yes what was the result? C.O.R.C. agreed in part as well.

All Copy's of document that indicate I've exhausted my administrative Remedies are attach.



A. Third Claim: on 8/6/09

Defendant involved in this incident: Registered nurse Henley the R.N for S.H.U. at Attica Correction Facility.

Did the following to me: After incident 1/30/09 where I was attack and assaulted by four gang members I was placed in protective custody while in protective custody I was in my cell another inmate reach inside my cell and stabbed me with 190°

Degree water witch cause severe burns to my ~~right~~ <sup>left</sup> torso and left arm. I Reported my injuries to the officer on duty I was then taken to S.H.U. to a more secure area and nurse Henley did not provide me with adequate medical attention or attempt to clean the burn area of my body the burn areas became infected days after and the only thing that was given to me was (preparation-H) which is for anal Hemroids and not for burns the medical attention was not adequate enough to help my medical needs I requested proper medical attention I was denied.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Denial of Adequate medical attention.

The relief I am seeking for this claim is: \$75,000 Thousand Dollars In monetary compensation for the lack of medical care and treatment.

: Exhaustion of your Administrative Remedies:

Did you grieve or appeal this claim? yes ☒ no ☐ if yes what was the results? The grievance committee did not agree with me And Believe adequate medical attention was given when it wasn't. Grievance # 55695-09.

Did you appeal that Decision: yes ☒ No if yes what was the Result? I appeal to the Superintendent he sent it back to me and would not accept my mail this action denied my (due process) I Appeal to C.O.R.C. and their decision was the same as grievance.

All copies are attach with the rest of documents.

6. Relief Sought

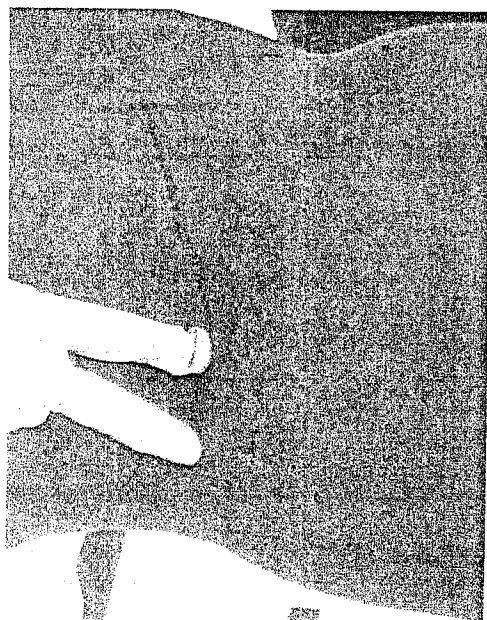
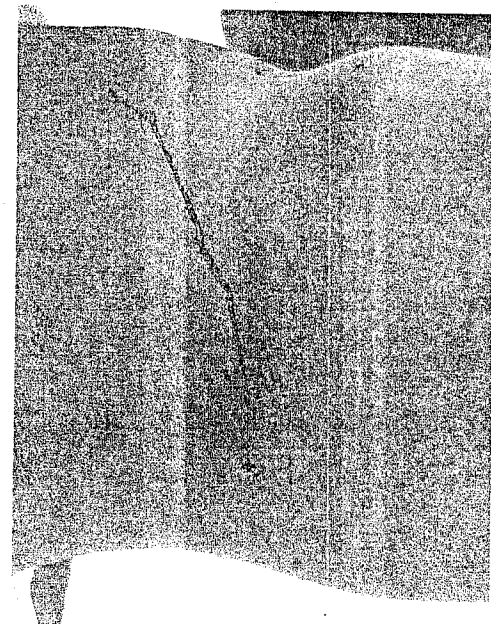
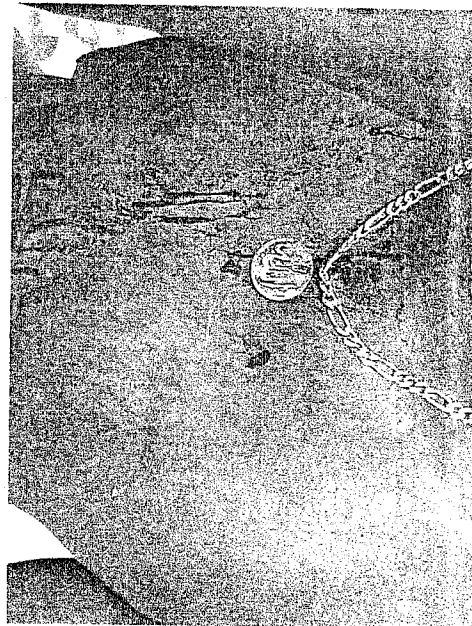
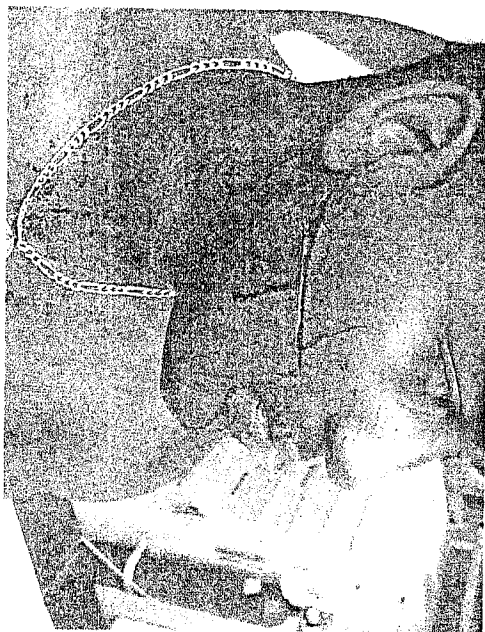
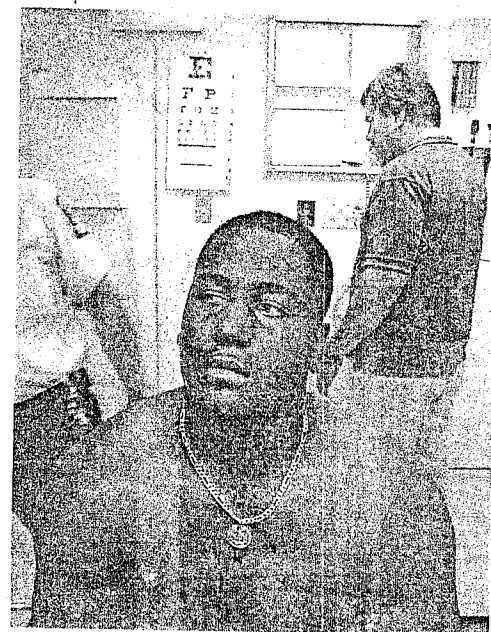
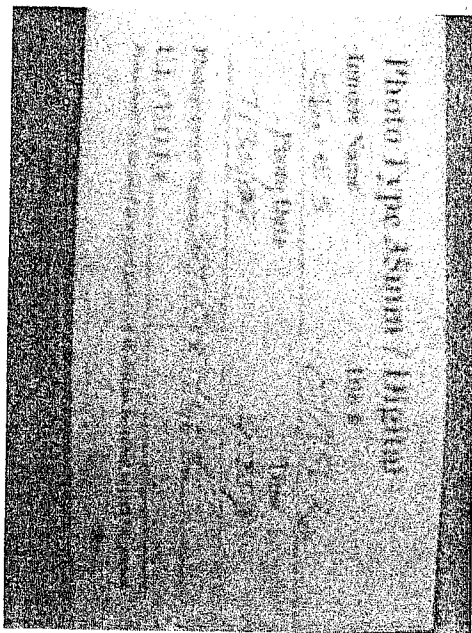
I am Seeking \$ 75.000 thousand Dollars for the lack of Medical attention and adequate medical Care. At Well for the risk and danger I was put in due to the lack of Security and Carelessness of Security Staff and Superior officers of Attica Correctional Facility.

I Declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/7/10 X  
Date

Signature of Plaintiff [Signature] X









STATE OF NEW YORK  
DEPARTMENT OF  
CORRECTIONAL SERVICES

INMATE GRIEVANCE PROGRAM  
CENTRAL OFFICE REVIEW COMMITTEE

Grievance Number A-55643-09	Design/Code I/50	Date Filed 8/5/09
Facility Attica Correctional Facility		
Title of Grievance Life In Danger, Metal Detector Not Used		
Director's Signature <i>[Signature]</i>		Date 10/7/09

10/7/09

**GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART**

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated.

Contrary to the grievant's assertions, CORC has not been presented with sufficient evidence to substantiate any negligence by staff. Further, the grievant has not presented any compelling reason to alter present operations.

SE/

-----

-----

JONES, E. 0715636

Transferred

Adequate Medical Care

(12)

22

FORM 2131E (REV. 6/06)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

## INMATE GRIEVANCE COMPLAINT

**ATTICA**

(HIA)

<b>A-</b>	Grievance No.
	55695-09

CORRECTIONAL FACILITY

Date 8/10/09Name Jones, E.Dept. No. 07A5636Housing Unit BW-9

Program \_\_\_\_\_

AM

CE-2

PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)\*

Description of Problem: (Please make as brief as possible)

SEE ATTACHEDGrievant  
Signature \_\_\_\_\_

Grievance Clerk \_\_\_\_\_

Date: 12 AUG 2009Advisor Requested ☐ YES ☐ NO

Who: \_\_\_\_\_

Action requested by inmate: \_\_\_\_\_

This Grievance has been informally resolved as follows:

**INMATE DID NOT SHOW UP FOR  
HEARING CALLOUTS ON THESE DATES**

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant  
Signature \_\_\_\_\_

Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC)

55695-09

2131E (REVERSE) (REV. 6/06)  
 Response of IGRC:

8/29/09

Rec. #1: According to ANA, you were seen at an outside hospital and given sutures. You were given oral antibiotic to prevent infection. In addition, upon your arrival in SHU, you were seen by medical staff for hot water burns; no blistering of the skin was noted. We agree that you ought to be treated for your medical needs.

ate Returned to Inmate

IGRC Members

hairperson

Return within 7 calendar days and check appropriate boxes.\*

☐ I disagree with IGRC response and wish to appeal to the Superintendent.

☐ I have reviewed deadlocked responses.  
 Pass-Thru to Superintendent

☒ I agree with the IGRC response and wish to appeal to the Superintendent.

☒ I apply to the IGP Supervisor review of dismissal

Signed

Grievant

Date

Grievance Clerk's Receipt

Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent

Date

Grievance forwarded to the Superintendent for action

Date

An exception to the time limit may be requested under Directive #4040, section 701.6(g).